

CC:KJM
ORIGINAL

CADES SCHUTTE LLP
A Limited Liability Law Partnership

MARTIN E. HSIA 2954-0

COLIN O. MIWA 2997-0

1000 Bishop Street, Suite 1200

Honolulu, HI 96813-4216

Telephone: (808) 521-9200

Facsimile: (808) 521-9210

E-mail: mhsia@cades.com
cmiwa@cades.com

Attorneys for Plaintiff
TRENDTEX FABRICS, LTD.

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MAY 01 2017
11 o'clock and 20 min. M. CN
SUE BEITIA, CLERK

LODGED

APR 21 2017
3:25pm
CLERK U.S. DISTRICT COURT
DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

TRENDTEX FABRICS, LTD.,

Plaintiff,

v.

HULA BATIK INTERNATIONAL
INC. (dba HULA BATIK APPAREL),

Defendant.

CIVIL NO. 16-00318 KJM
(Copyright)

**PLAINTIFF TRENDTEX
FABRICS, LTD.'S *EX PARTE*
APPLICATION FOR (1)
TEMPORARY RESTRAINING
ORDER, SEIZURE ORDER AND
(2) ORDER TO SHOW CAUSE
FOR PRELIMINARY
INJUNCTION AND FOR
EXPEDITED DISCOVERY;
MEMORANDUM IN SUPPORT
OF MOTION; DECLARATION
OF DONNA HAMAI;
DECLARATION OF ELISE B.
JOHNSON; DECLARATION OF
COUNSEL; EXHIBITS
"A" - "CC"**

**PLAINTIFF TRENDTEX FABRICS, LTD.’S *EX PARTE*
APPLICATION FOR (1) TEMPORARY RESTRAINING ORDER,
SEIZURE ORDER AND (2) ORDER TO SHOW CAUSE FOR
PRELIMINARY INJUNCTION AND FOR EXPEDITED DISCOVERY**

Plaintiff TRENDTEX FABRICS, LTD. (“*Plaintiff*” and “*Trendtex*”), by and through its attorneys, hereby moves for issuance of an *ex parte* temporary restraining order, seizure order, and order to show cause for a preliminary injunction and for expedited discovery.

Trendtex, a Hawaii corporation, is engaged in the creation, production, marketing and sale of fabric used primarily for clothing, in this judicial district and throughout the world. The fabric bears unique designs created by artists commissioned and paid for by Trendtex, and is sold primarily to Hawaii fabric converters who manufacture aloha wear garments sold locally and elsewhere. To protect the considerable sums Trendtex has invested in the designs of its fabrics, and in the advertising and marketing of its products, Trendtex has acquired various U.S. copyright registrations covering the designs and its copyright rights in and to the designs.

Despite Trendtex’s copyright registrations, Defendant HULA BATIK INTERNATIONAL, INC., a Hawaii corporation (“*Defendant*” and “*Hula Batik*”), acting in concert or active participation with CHAD JUNG KIM (“*Chad Kim*”), has been importing, distributing and selling garments in Hawaii that infringe on, or

incorporate copies of, certain Copyrighted Designs owned and registered by Trendtex. Defendant Hula Batik persists in this infringement even though it has been put on notice that garments bearing the Vintage Ceres Design and the Panel Hibiscus Design were previously ordered by this Court to be delivered by Chad Kim for impoundment and that any person or entity acting in concert with him is enjoined from further importation, distribution, and sales of such garments.

Trendtex hereby requests entry of a temporary restraining order without notice, as well as an order directing the U.S. Marshal or other federal or local law enforcement officer, together with representatives from Trendtex, to seize garments bearing the Copyright Designs and all business records relating thereto. Trendtex has learned that a container of clothing goods has recently been shipped to Hula Batik, that Chad Kim has been seen at the Hula Batik warehouse located at 590 Dillingham Blvd. #E, and that Hula Batik anticipates selling garments bearing the Trendtex Copyrighted Designs over the next six months. Although the warehouse is Defendant Hula Batik's business location, because Defendant is working with Chad Kim, and because Chad Kim's fly-by-night operation involved immediate sales of the garments at the local swap meet or through Waikiki cart vendors as soon as the items were shipped to Honolulu -- even despite two prior court-ordered injunctions pertaining to garments bearing two of the Copyrighted Designs at issue in this case -- it is apparent that *ex parte*

relief, including a seizure order, is appropriate to prevent the easily-moved evidence from disappearing before a full hearing may be scheduled. If Trendtex is to have any relief from Defendant's infringements, an *ex parte* temporary restraining order and order for seizure of all goods bearing the four Copyrighted Designs, including related business records, is necessary, to prevent Defendant's harmful and infringing conduct.

As set forth in the attached memorandum in support of this application, the relief requested herein is authorized by law and has been granted by this Court and other courts in similar cases.

DATED: Honolulu, Hawaii, April 21, 2017.

CADES SCHUTTE LLP
A Limited Liability Law Partnership



MARTIN E. HSIA
COLIN O. MIWA

Attorneys for Plaintiff
TRENDTEX FABRICS, LTD.